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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,730	07/22/2003	Steven D. Perez		7179

63629 7590 03/29/2007  
STEVEN PEREZ  
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BOULDER CREEK, CA 95006

EXAMINER

HARRISON, CHANTE E

ART UNIT	PAPER NUMBER
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2628

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/624,730

Applicant(s)

PEREZ, STEVEN D.

Examiner

Chante Harrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10-10-03

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Applicant is advised that should claims 1-5 be found allowable, claims 6-10 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1 and 6 are directed to an abstract idea rather than a practical application of the idea. The claimed invention does not result in a physical transformation nor does the claimed invention appear to provide a useful, concrete and tangible result as the claims do not include claim language, such as display of the modular weave design, which indicates a manipulation of data for output

to computer display that physically transforms the article or object to a different state or thing. Therefore the claim language does not present a practical application by physical transformation or production of a useful, concrete and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Jonathan Grove, US 2005/0007378 A1, 1/2005.

As per independent claim 1, Grove discloses (a) providing a module of area having distinct edges (i.e. cells) (Fig. 2A "22"; pp. 2, Para 56), said module bearing a visual image of string segments arranged in a portion of a weave pattern (Fig. 2A; pp. 2, Para 57) deliberately avoiding rotational symmetry (i.e. applying a simultaneous smooth warp along two coordinate axes, which creates a distinct and nonsymmetrical pattern) (Fig. 11E), which, when placed in an arrangement with a multiplicity of other modules of substantially identical shape and appearance, said modules with said edges aligned edge-to-edge (Fig. 2A; pp. 2, Para 56), forms a continuous area bearing the visual image of a continuous weave design (Fig. 2A), (b) assembling said modules of area to form said continuous weave design which is varied by selective orientation of any or all

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of said modules (Fig. 11 C, D; pp. 4, Para 81-84, 88), whereby one can create any repetitive or non-repetitive variation (Fig. 2A; pp. 2, Para 57, 61) of said continuous weave design from said substantially identical modules by simply selectively orienting said modules (pp. 4, Para 88).

As per dependent claim 2, Grove discloses wherein said area module is a regular polygon (i.e. each cell is a closed plane figure bounded by straight lines, e.g. polygon) (Fig. 2A "22").

As per dependent claim 3, Grove discloses wherein said area module is based on a regular polygon, with the added feature that said edges are curved (Fig. 2E; Fig. 11A, C & D).

As per dependent claim 4, discloses wherein said string segments are replaced by linear graphic designs (i.e. color) (pp. 6, Para 115-118).

As per dependent claim 5, discloses wherein said area modules are assembled on a display screen of a computer (i.e. generated texture, e.g. weave pattern, is displayed on a computer) (pp. 2, Para 53 & 54).

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As per independent claim 6, discloses a method of making a weave design (Fig. 2A) as set forth in claim 1. Therefore the rationale as applied in the rejection of claim 1 applies herein.

As per claims 7-10, the rationale as applied in the rejection of claims 2-5 respectively apply herein.

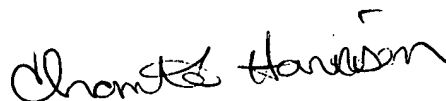
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chante Harrison whose telephone number is 571-272-7659. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on 571-272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Chante Harrison  
Examiner  
Art Unit 2628



Ch  
March 20, 2007